THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 25138 of 2007

Date:27-11-2007

Between:

Makineni Suryanarayana

…Petitioner

AND

The Tahsildar, Kakumanu and two others

.. Respondents

ORDER:

The petitioner seeks a writ of mandamus to declare the action of the respondents in taking steps to demolish the construction made by him in Sy.No.464-1.2 to an extent of 242.55 square yards of China Lingayapalem village, Kakumanu mandal, Guntur District, as illegal and arbitrary and consequently direct the respondents not to demolish the construction made by him in the said land.

It is the case of the petitioner that he has purchased an extent of 242.55 square yards in Sy.No.464-1.2 in China Lingayapalem village, Kakumanu mandal, Guntur District from one Radhakrishna Murthy son of Venkataratnam and Srihari Rao son of Saranu Ramaiah through registered sale deed, dated 31.03.2006 and the vendors of the petitioner purchased the same in the year 1985 and since then they are in possession and enjoyment of the same. While so, the first respondent/Tahsildar issued notice, dated 30.08.2007 under Section 6 of the A.P. Land Encroachment Act (for short 'the Act') alleging that an extent of Ac.0-05 cents out of Ac.12.76 cents in Sy.No.525 of China Lingayapalem village has been occupied and constructions have been made and the said land belongs to the government and no explanation has been submitted to the show cause notice and accordingly directed to remove the encroachments. It is further stated that the said order is only a show cause notice and enquiry is pending, but it is not a final order under Section 6 of the Act. It is further stated that as the enquiry is said to have been pending, subsequently a notice, dated 30.10.2007 in R.C.No.154/2007 has been issued calling upon the petitioner to

stop the constructions. It is stated that during the pendency of the enquiry, the petitioner stopped the constructions. But, without there being any further orders, the respondents are proceeding to demolish the structures which have already been made.

I am not inclined to express any opinion with regard to merits of the case, as admittedly a perusal of the proceedings dated 30.08.2007 in R.C.No.154/2007 appears to be final notice under Section 6 of the Act, against which an appeal lies under Section 10 of the Act before the Revenue Divisional Officer concerned.

Therefore, having regard to the facts of the case, the petitioner is permitted to file an appeal against the impugned order, dated 30.08.2007 in R.C.No.154/2007 before the Revenue Divisional Officer within ten days from today and the petitioner shall not make any further construction and at the same time, the respondents are directed to maintain status-quo with regard to the possession obtained as on today pending disposal of the appeal if any filed within ten days.

With the aforesaid directions, the writ petition is disposed of. There shall be no order as to costs.

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V.ESWARAIAH, J.

Date:27.11.2007
ccm

Note:

Furnish C.C. within two days.
B/O
ccm